

CIRCUIT COURT SUMMONS

NASHVILLE, TENNESSEE

COPY

STATE OF TENNESSEE
DAVIDSON COUNTY
20TH JUDICIAL DISTRICT☒ First
☐ Alias
☐ Pluries

Melody Isabell

CIVIL ACTION
DOCKET NO. 10C279

Plaintiff

Vs.

Zimmer Holdings, Inc. d/b/a Zimmer US, Inc.

Serve through Registered Agent:

Corporation Service Company

2908 Poston Avenue, Nashville, TN 37203

Defendant

Method of Service:

- ☒ Davidson County Sheriff
☐ Out of County Sheriff
☐ Secretary of State
☐ Certified Mail
☐ Personal Service
☐ Commissioner of Insurance

To the above named Defendant:

You are summoned to appear and defend a civil action filed against you in the Circuit Court, 1 Public Square, Room 302, P.O. Box 196303, Nashville, TN 37219-6303, and your defense must be made within thirty (30) days from the date this summons is served upon you. You are further directed to file your defense with the Clerk of the Court and send a copy to the Plaintiff's attorney at the address listed below.

In case of your failure to defend this action by the above date, judgment by default will be rendered against you for the relief demanded in the complaint.

ISSUED: 1-26-10

RICHARD R. ROOKERCircuit Court Clerk
Davidson County, TennesseeBy: 

Deputy Clerk

ATTORNEY FOR PLAINTIFF

or

PLAINTIFF'S ADDRESS

James B. Lewis #19477 of Bill Easterly & Associates. P.C.

3017 Poston Avenue, Nashville, TN 37203 (615) 244-2222

Address

TO THE SHERIFF:

Please execute this summons and make your return hereon as provided by law.

RICHARD R. ROOKER

Circuit Court Clerk

Received this summons for service this _____ day of _____, 20____.

SHERIFF



If you have a disability and require assistance, please contact 862-5204.

RETURN ON PERSONAL SERVICE OF SUMMONS

I hereby certify and return that on the _____ day of _____, 20____, I:

 served this summons and complaint/petition on _____
_____ in the following manner:

 failed to serve this summons within 90 days after its issuance because _____

Sheriff/Process Server

RETURN ON SERVICE OF SUMMONS BY MAIL

I hereby certify and return, that on the _____ day of _____, 20____ I sent, postage prepaid by registered return receipt mail or certified return receipt mail, a certified copy of the summons and a copy of the compliant in Docket No.

_____ to the defendant, _____. On the _____ day of _____, 20____, I received the return receipt for said registered or certified mail, which had been signed by _____ on the _____ day of _____, 20____. Said return receipt is attached to this original summons and both documents are being sent herewith to the Circuit Court Clerk for filing.

SWORN TO AND SUBSCRIBED BEFORE ME ON THIS

_____ DAY OF _____, 20____.

PLAINTIFF, PLAINTIFF'S ATTORNEY OR OTHER PERSON
AUTHORIZED BY STATUTE TO SERVE PROCESS

NOTARY PUBLIC or _____ DEPUTY CLERK
MY COMMISSION EXPIRES: _____

NOTICE

TO THE DEFENDANT(S):

Tennessee law provides a four thousand dollar (\$4,000.00) debtor's equity interest personal property exemption from execution or seizure to satisfy a judgment. If a judgment should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the clerk of the court. The list may be filed at any time and may be changed by you thereafter as necessary; however, unless it is filed before the judgment becomes final, it will not be effective as to any execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed; these include items of necessary wearing apparel (clothing) for yourself and your family and trunks or other receptacles necessary to contain such apparel, family portraits, the family Bible, and school books. Should any of these items be seized, you would have the right to recover them. If you do not understand your exemption right or how to exercise it, you may wish to seek the counsel of a lawyer.

ATTACH
RETURN
RECEIPT
HERE
(IF APPLICABLE)

STATE OF TENNESSEE
COUNTY OF DAVIDSON

I, Richard R. Rooker, Clerk of the Circuit Court in the State and County aforesaid, do hereby certify this to be a true and correct copy of the original summons issued in this case.

RICHARD R. ROOKER, CLERK

(To be completed only if
copy certification required.)

By: _____ D.C.

FILED

IN THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE
AT NASHVILLE

2010 JAN 26 PM 12:02

MELONY ISABELL,
Plaintiff,

v.

ZIMMER HOLDINGS, INC.
d/b/a ZIMMER US, INC.,
Defendant.

JURY DEMAND

No. 10C299

RICHARD K. ROEMER, CLERK

D.C.

COPY

COMPLAINT

The Plaintiff, Melony Isabell, by and through counsel, brings this civil action against the Defendant, Zimmer Holdings, Inc. and will show:

1. Plaintiff Melony Isabell is a citizen and resident of Wayne County, Tennessee.
2. Defendant, Zimmer Holdings, Inc., upon information and belief, is a foreign corporation that does business in this country as Zimmer US, Inc. and has a principal place of business listed with the Tennessee Secretary of State as: 345 East Main Street, Warsaw, Indiana, 46580.
3. Defendant is now, and at all times mentioned in this complaint was, in the business of designing, manufacturing, constructing, assembling, inspecting, and selling various types of medical implants, including tibial and femoral nail implants.
4. This court has jurisdiction over the subject matter of this complaint and over the parties hereto pursuant to Tenn. Code Ann. §16-10-101.
5. Venue is proper because Davidson County is the county in which the cause of action arose, pursuant to Tenn. Code Ann. §20-4-102, as described below.


6. On January 28, 2009, William Obremsky, M.D. performed a right knee fusion on Plaintiff at Vanderbilt Medical Center in Nashville, Tennessee.
7. Dr. Obremsky seated a Zimmer tibial nail (model no. 32-8553-311-61 serial/lot no. 94001061) and coupled it to a Zimmer femoral nail (model no. 32-8553-311-11 serial/lot no. 93000023).
8. Plaintiff was discharged from Vanderbilt on January 31, 2009.
9. On February 1, 2009, Plaintiff returned to Vanderbilt with complaints of pain and drainage.
10. Radiographs demonstrated failure of the Defendant's tibiofemoral device.
11. On February 4, 2009, William Hakeos, M.D. operated on the right knee and pulled the tibial nail out with vice grip pliers.
12. Plaintiff was discharged from Vanderbilt on February 9, 2009 in a long leg cast with an open window at her knee so that she could do wet to dry dressing changes twice a day.
13. On April 8, 2009, Dr. Hakeos operated on the right knee and fused her knee with a Biomet Universal arthrodesis nail and three locking screws.
14. To date, there has been no evidence of hardware failure with the Biomet Universal.
15. At all times mentioned in this complaint and previous to, Defendant so negligently and carelessly designed, manufactured, constructed, assembled, inspected, and sold the implants that it was dangerous and unsafe for its intended use.
16. As a proximate result of Defendant's negligence, the Plaintiff suffered personal injuries and she is entitled to recover her damages from Defendant for: physical


pain and suffering; mental or emotional pain and suffering including anguish, distress and worry; loss of capacity for the enjoyment of life; medical expenses in excess of \$60,000.00; and permanent injury.

WHEREFORE, Plaintiff respectfully requests:

1. A jury to try this cause;
2. A judgment for the Plaintiff against the Defendant;
3. Court costs and discretionary costs;
4. Pre- and post-judgment interest; and
5. Such further relief as the Court may deem proper.

Respectfully submitted:


Bill Easterly, #15425
James B. Lewis, #19477
Bill Easterly & Associates, P.C.
Attorneys for Plaintiff
3017 Poston Avenue
Nashville, Tennessee 37203
(615) 244-2222

I hereby certify that this is a true copy
of original instrument filed in my office
this 26 day of JAN 2010
By RICHARD B. PROCK Clerk

Deputy Clerk